

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5593 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? -
2. To be referred to the Reporter or not? -

@ JJJ

3. Whether Their Lordships wish to see the fair copy of the judgement? -
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? -
5. Whether it is to be circulated to the Civil Judge?

GAURIBEN SABHABHAI

Versus

HALVAD NAGAR PANCHAYAT

Appearance:

MR PB MAJMUDAR with Ms. Paurami Sheth, for Petitioners  
MR HARIN P RAVAL for Respondent No. 1  
MR VB GHARANIYA, AGP for Respondent No. 2

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 13/11/98

ORAL JUDGEMENT

This petition has been filed for absorption on

permanent post sweepers on the basis of their seniority as Rojmdars.

2. The fact is admitted by the respondent no.1 that the petitioners no. 1 and 2 are working as part time sweepers from 1-1-1981 and the petitioner no. 3 is working as sweeper from 18-3-1973 in the respondent no.1 Nagar Panchayat.

3. This Court has directed to absorb and regularize all the part time sweepers as full time sweepers who are working in different departments of the State Government as full time sweepers in category of Class IV employees within three months by the order dated 23-7-98 in the case of D.C. Wadhwa Vs. Director General of Police, reported in 1993 (3) GLR 2041.

4. The learned counsel for the State as well as for the respondent no.1 Nagar Panchayat contended that the petitioners have raised their claim before the Industrial Tribunal and that fact has not been disclosed in this petition by the petitioners. Hence, on this ground alone, the petition is liable to be dismissed. Learned counsel for the petitioners submit that Ashu Mohan was also one of the claimants before the Industrial Tribunal and that reference before the Industrial Tribunal was dismissed for nonprosecution as nobody appeared on behalf of the claimants before the Industrial Tribunal. Ashu Mohan filed Special Civil Application No. 7110/91 before this Court and that petitioner was disposed of with the directions to the respondents to consider the case of the petitioner for taking her back in service. In case, the petitioner's case was not acceptable, the respondents were directed to pass a reasoned order and the copy of the same was directed to be sent to the petitioner of that case by registered post AD. This Court by the order dated 15-8-1997 further observed that looking to the fact that the petitioner is a sweeper a person belonging to downtrodden class is at liberty to approach this Court for reviving that Special Civil Application in case of difficulty. Learned counsel for the petitioners further submitted that Ashu Mohan has been taken back in service on the basis of the representation filed by him pursuant to the Court's order.

5. I have considered the submissions made on behalf of the parties. As the petitioner and Ashu Mohan and others moved the Industrial Tribunal and that reference was decided by the award dated 19-8-1997. The petitioners were taken back into service. But Ashu Mohan was not taken back in service and hence Special Civil

Application No. 7110/91 was filed and that petition was disposed of by this Court by the order dated 15-8-1997. The matter has already been considered elaborately in the case of D.C. Wadhwa vs. Director General of Police, and considering the various Government resolutions and some orders of this Court the order was passed and the Government of Gujarat was directed to absorb and regularise all the part time sweepers who are working in different department of the Government as full time sweepers in the cadre of IV employees within three months.

6. Considering the fact that the petitioners are sweepers belonging to downtrodden class, and decision in the case of D.C. Wadhwa (Supra) and in order to avoid multiplicity of the litigations I think it proper to decide this petition directing the respondent no. 1 Nagar Panchayat to absorb and regularize the petitioners as full time sweepers in the cadre of Class IV employees from the date of this order.

8. Accordingly, this petition is allowed and the respondents are directed to absorb and regularize the petitioners as full time sweepers in the cadre of Class IV employees from the date of this order. Rule is made absolute to the above extent, with no order as to costs.

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